

## **REMARKS**

### **Application Amendments**

Claim 1 has been rewritten, incorporating the elements of original Claim 11, to more clearly claim the Applicants' invention. Claims 4, 18 and 19 have been amended to address grammatical informalities. Claim 5 has been amended to address the Examiner's rejection under 35 USC §112. Claims 10 and 14 have been amended to more clearly claim the Applicants' invention. Claims 12 and 18 have been rewritten to depend from amended Claim 1. Claims 8 and 11 have been cancelled, without prejudice. Claims 23-30 have been canceled from the present application per the election made in response to the previously issued restriction requirement. Support for these amendments may be found throughout Applicants' Specification (for example, at pages 25 [lines 14-16], 28 [lines 10-13], 31 [lines 21-31], 31 [lines 1-3], 33 [lines 2-17], 39 [lines 12-13]), and originally filed Claims 11 and 28. No new matter has been added.

### **Claim Rejections under 35 USC §112, First paragraph**

Claims 5 and 8 stand rejected by the Examiner under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement.

The Examiner asserts that claim 5 is unclear in the use of the terms "silk-like blocks", "elastin like blocks", "collagen like blocks", and "laminin like blocks", and that the original specification does not provide support for these terms.

The Examiner also asserts that no support could be found for different drugs in different areas or at different concentrations as set out in Claim 8.

Applicants have rewritten Claim 5, deleting the terms "silk-like blocks", "elastin like blocks", "collagen like blocks", and "laminin like blocks". Applicants have cancelled Claim 8. Accordingly, these claim rejections are now obviated.

### **Claim Rejections under 35 USC §102**

Claims 1, 3-5, 9, 21 and 22 stand rejected by the Examiner under 35 U.S.C. §102 (b) as being anticipated by Buscemi, et al. (US 5,500,013; "Buscemi"). Claims 10-20 stand objected to as being dependent upon a rejected base claim.

According to the Examiner, Buscemi purportedly discloses a device for implanting into the vasculature comprising a biodegradable matrix, at least one drug, and device having a ring-like structure capable of degrading; mechanical expansion; and, guiding the device to the vessel wall.

Applicants respectfully traverse this rejection as applied to the amended claim set.

Buscemi discloses a biodegradable stent having a tubular body made of a matrix essentially saturated with drugs, a plurality of fibers disposed around the body, and a biodegradable strengthening material in contact with the matrix. The drugs are released as the matrix degrades.

Applicants contend that Applicants' Claim 1, as amended, is not anticipated by Buscemi. Applicants' Claim 1 is directed to an implantable device having a ring-like structure, capable of degrading gradually and completely, and comprising a biodegradable matrix material capable of dissolving upon contact with blood, one or more particles incorporated into the biodegradable matrix material, and, at least one drug coated onto or incorporated into the one or more particles and capable of being released into the blood stream as the biodegradable matrix material dissolves. Buscemi does not disclose a device comprising one or more particles that are incorporated into the biodegradable matrix and that comprise at least one drug. Therefore, Applicants submit that all of the elements of Applicants' amended Claim 1 are not found in Buscemi.

Applicants also contend that as independent Claim 1 is non-anticipated, rejected Claims 3-5, 9, 21 and 22 and objected to Claims 10-20, depending from and thus incorporating all elements of independent Claim 1, are also non-anticipated and therefore allowable [*In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)].

Accordingly, Applicants submit that the Applicants' amended Claim 1, and claims depending therefrom, are patentable over Buscemi for the reasons stated above. It is respectfully submitted that amended base Claim 1 and its dependent Claims 3-6, 9-10 and 12-22 are now in condition for allowance and that the Examiner's rejection and objection should be withdrawn.

**CONCLUSION**

For all of the foregoing reasons, it is respectfully submitted that amended Claims 1, 3-6, 9-10 and 12-22 are in condition for final allowance. Notice to such effect is respectfully requested.

No fees are believed to be due by the present amendments.

Should the Examiner have any questions or requires any additional information from Applicants' attorney, the Examiner is invited to contact the undersigned.

Respectfully submitted,

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